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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/625,060

07/22/2003

Bryan B. Sauer

CL1833 US NA

8260

23906

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07/07/2006

E I DU PONT DE NEMOURS AND COMPANY  
LEGAL PATENT RECORDS CENTER  
BARLEY MILL PLAZA 25/1128  
4417 LANCASTER PIKE  
WILMINGTON, DE 19805

EXAMINER

GRAY, JILL M

ART UNIT

PAPER NUMBER

1774

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/625,060	SAUER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jill M. Gray	1774	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,9-12 and 43-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9-12 and 43-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 21, 2006 has been entered.

### ***Response to Amendment***

The rejection of claims 1-3, 11-12, 44, and 47 under 35 U.S.C. 102(e) as being anticipated by PCT Publication WO 03/008680 A1 is moot in view of applicants' amendments.

The rejection of claims 4-6 under 35 U.S.C. 103(a) as being unpatentable over PCT Publication WO 03/008680 A1 in view of Bonte et al, 6,380,290 B1 is moot in view of applicants' amendments.

### ***Claim Rejections - 35 USC § 103***

2. Claims 1, 3-6, 9-12, and 43-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT Publication WO 03/008680 A1 (Sen) in view of PCT Publication WO 93/15251 (Gessner), for reasons of record.

Sen teaches a fiber comprising a segmented thermoplastic elastomeric polymer and an uncrosslinked olefinic thermoplastic elastomeric polymer, said olefinic thermoplastic elastomeric polymer being an ethylene copolymer such as ethylene/1-

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octane copolymer, per claims 1 and 11. In addition, Sen teaches that the copolymer is present in an amount within applicants' range as required by claim 12. See Example 2A. Also, Sen teaches that the thermoplastic elastomeric polymer can be of the type contemplated by applicants in claims 2-3, such as a poly(ether amide) or poly(ether ester). See page 7, lines 3-14. Sen also teaches the formation of fabrics and that a surfactant can be included as required by claims 44 and 47. See page 8, line 2 and page 19, line 1. Sen does not teach the specific propylene of claim 1. Gessner teaches the formation of fabrics, garments and hygiene articles (claims 44-46) comprising filaments formed from thermoplastic elastomers such as propylene based polymers of the type contemplated by applicants in claims 9-10. See page 10. In addition, Gessner teaches that his articles have improved elastic recovery properties. It would have been obvious to modify the teachings of Sen by substituting his olefinic thermoplastic elastomer with the olefinic thermoplastic elastomer taught by Gessner with the reasonable expectation of success of obtaining articles having improved elastic recovery. As to the particular type of propylene, it would have been obvious to the skilled artisan to use any propylene known in the art to have elastic recovery properties with the reasonable expectation of success and in the absence of clear evidence of superior or unexpected properties of the resultant fiber, said properties being directly related to the particular propylene.

Therefore, the combined teachings of Sen and Gessner would have rendered obvious the invention as claimed in present claims 1, 3-6, 9-12, and 43-47.

***Response to Arguments***

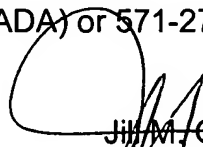
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3. Applicant's arguments filed June 21, 2006 have been fully considered but they are not persuasive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill M. Gray whose telephone number is 571-272-1524. The examiner can normally be reached on M-Th and alternate Fridays 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jill M. Gray  
Primary Examiner  
Art Unit 1774

jmg